



6450-01-P

**DEPARTMENT OF ENERGY**

[Docket No. EESEP0216]

**State Energy Program and Energy Efficiency and Conservation Block Grant (EECBG) Program; Request for Information**

**AGENCY:** Office of Energy Efficiency and Renewable Energy and Office of the General Counsel, Department of Energy.

**ACTION:** Request for Information (RFI); request for comment.

**SUMMARY:** The U.S. Department of Energy (DOE or the Department) is interested in continuing to promote the use of financing mechanisms by grantees of the State Energy Program (SEP) and Energy Efficiency and Conservation Block Grant (EECBG) program, in support of energy efficiency and renewable energy activities. To facilitate this process and to allow interested parties to provide suggestions, comments, and information, DOE is publishing this request for information. This request identifies several areas on which DOE is particularly interested in receiving information; however, any input and suggestions considered relevant to the topic are welcome.

**DATES:** Written comments and information are requested by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EESEP0216, by any of the following methods:

- E-mail: to [christine.platt@ee.doe.gov](mailto:christine.platt@ee.doe.gov). Include EESEP0216 in the subject line of the message.
- Mail: Christine Platt Patrick, U.S. Department of Energy, Mailstop EE-2K, 1000 Independence Avenue, SW., Washington, DC 20585-0121, Phone: (202) 287-1546. Please submit one signed paper original.
- Hand Delivery/Courier: Christine Platt Patrick, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0121, Phone: (202) 287-1546. Please submit one signed paper original.

Instructions: All submissions received must include the agency name and docket number for this request.

Docket: For access to the docket to read background documents, or comments received, go to the Federal eRulemaking Portal at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Christine Platt Patrick, Policy Advisor, U.S Department of Energy, Weatherization and Intergovernmental Program, Mailstop EE-2K, 1000 Independence Avenue, SW., Washington DC, 20585-0121, Telephone: (202) 287-1546, E-mail: [christine.platt@ee.doe.gov](mailto:christine.platt@ee.doe.gov).

For legal issues contact Chris Calamita, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, Mailstop GC-71, 1000 Independence Ave, SW., Washington, DC, 20585, Telephone: (202) 586-1777, E-mail: [christopher.calamita@hq.doe.gov](mailto:christopher.calamita@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:****Authority and Background:**

The Office of Weatherization and Intergovernmental Programs (OWIP) is seeking to promote the use of “evergreen funds” among its grantees. “Evergreen funds” describes generally a use of funds that would allow a grantee to rely on an initial amount of funding to periodically provide support to eligible projects in an on-going basis, for example through a revolving loan fund (RLF) program or a loan loss reserve (LLR) program.

SEP is authorized under the Energy Policy and Conservation Act, as amended (42 U.S.C. 6321 et seq.) Evergreen funds such as RLFs and LLRs are eligible uses of funds under SEP to the extent that the activities supported by the loans are eligible activities under the program. The implementing regulations for SEP expressly identify RLFs as an eligible use of SEP funds (10 CFR 420.18(d)).

Title V, Subtitle E of the Energy Independence and Security Act, as amended (42 U.S.C. 17151-17158) authorizes the Department to administer the EECBG program. Evergreen funds such as revolving loan funds (RLF) and loan loss reserves (LLR) are eligible uses of funds under the EECBG Program to the extent that the activities supported by the loans are eligible activities under the program. EECBG grantees must comply with statutory law regarding RLFs. 42 U.S.C. 17155 (b)(3)(B) mandates a limitation on the use of funds for the establishment (*i.e.*, the capitalization) of RLFs by formula-eligible units of local governments and formula-eligible tribes equal to the greater of 20 percent of the grantee's allocation or \$250,000. Funds used for administrative costs to set up a RLF are not subject to this restriction, but are subject to the general limitations established by statute on administrative costs.

For both SEP and the EECBG Program, grantee arrangements for leveraging additional public and private sector funds, including rebates, grants, and other incentives, must be arranged to ensure that Federal funds go to support eligible activities listed in 42 U.S.C. 6322(d)(5)(A) for SEP and 42 U.S.C. 17154(3)-(13) for EECBG. The leveraging of funds may be accomplished through mechanisms such as partnerships with third party lenders, co-lending, third party administration of loans, and loan loss reserves.

The Department would like to continue to promote the use of evergreen funds by grantees of the SEP and EECBG programs. The Department is issuing this initial request for information to allow interested parties an opportunity to provide information that will assist DOE in continuing to promote these mechanisms.

## **Public Participation**

### *A. Submission of Information*

DOE will accept comments in response to this RFI under the timeline provided in the **DATES** section above. Comments submitted to the Department through the eRulemaking Portal or by e-mail should be provided in WordPerfect, Microsoft Word, PDF, or text file format. Those responding should avoid the use of special characters or any form of encryption, and wherever possible, comments should include the electronic signature of the author. Comments submitted to the Department by mail or hand delivery/courier should include one signed original paper copy. No telefacsimiles will be accepted.

Comments submitted in response to this notice will become a matter of public record and will be made publicly available.

The Department encourages interested parties to contact DOE if they would like to meet in person to discuss their comments. The Department's policy governing ex parte communications is posted on the Office of the General Counsel's Web site at:

<http://www.gc.energy.gov/1309.htm>.

### *B. Issues on Which DOE Seeks Information*

For this RFI, DOE requests comments, information, and recommendations on the following concepts for the purpose of the continued use of evergreen funds by SEP and EECBG grantees.

As set forth below, we seek comment on DOE's requirements for (1) Types of Evergreen Funds; (2) Ending an Evergreen Fund After The End of the Grant Period; (3) Monitoring; and (4) Reporting. The sequence of these questions does not reflect any specific DOE preference.

#### **(1) Types of Evergreen Funds**

a. Under existing Department rules, evergreen funds such as RLFs and LLRs are eligible uses of funds under the SEP and EECBG Programs to the extent that the activities supported by the loans are eligible activities under the program. DOE would like to continue to promote the use of these types of evergreen funds. Which types of evergreen funds are being used by grantees and subgrantees in both programs? What are the costs and benefits of using these types of evergreen funds?

b. Currently, the SEP and EECBG regulations allow a grantee to elect to use a third party to administer evergreen funds. What recourse should be available for a grantee if a third party fails to follow through on properly administering the financing mechanism? Should that recourse be available if the third party fails just once to properly administer a financing mechanism? Should DOE disallow a third party with a history of poor performance from acting as a third party representative?

## **(2) Ending an Evergreen Fund After The End of the Grant Period**

Currently, the SEP and EECBG programs allow grantees to end or reduce funding for a RLF program, LLR, or other eligible financing program at any time as long as any remaining funds are used by the grantee for an eligible purpose after submitting and finalizing an amendment through the DOE Project Officer. Alternatively, the funds may be returned to DOE.

## **(3) Periodic Reporting**

a. DOE is considering periodic reporting by grantees that operate evergreen funds that continue beyond the grant period specified in the Recovery Act grant awards. This reporting would be separate from reporting requirements for annual appropriated funds in both programs. DOE seeks comment on whether DOE periodic reporting according to specified conditions and criteria.

b. With regard to such periodic reporting, the Department seeks comment on the following conditions and criteria:

### *Information Flow*

(i) Should reporting occur more frequently than on an annual basis?

(ii) DOE requests comment on the types of information that grantees can provide on evergreen funds, for example how many loans were issued in the period, what types of loans, the dollar amount of loans, what projects were completed, what loans were paid back.

(iii) DOE requests comment on when information on a loan that is defaulted upon can be provided to DOE and what other information grantees can provide in this situation.

#### *Cost*

(i) DOE requests comments regarding the cost burden placed on grantees for the above described reporting. Please provide a detailed description of the anticipated costs and supporting information.

#### **(4) Monitoring**

a. DOE is considering periodic monitoring that would be applicable to all evergreen funds that continue beyond the grant period specified in the Recovery Act grant awards. This requirement would be separate from monitoring requirements for annual appropriated funds in both programs. DOE seeks comment on whether grantees should conduct periodic monitoring according to specified conditions and criteria.

b. With regard to such periodic monitoring, the Department seeks comment on the following conditions and criteria:



### *Information Flow*

- (i) Should monitoring occur on more than an annual basis?
- (ii) DOE requests comment on the types of information that grantees can provide on evergreen funds, for example how many loans were issued in the period, what types of loans, the dollar amount of loans, what projects were completed, what loans were paid back.
- (iii) DOE requests comment on when information on a loan that is defaulted upon can be provided to DOE and what other information grantees can provide in this situation.
- (iv) Should monitoring be performed by an independent third party, in addition to DOE monitoring?

### *Cost*

- (i) DOE requests comments regarding the anticipated cost burden placed on grantees for the above described monitoring. Please provide a detailed description of the costs and supporting information.

Docket: For direct access to the docket to read background documents, or comments received, visit the Federal eRulemaking Portal at <http://www.regulations.gov>.

Procedural Requirements: Today's regulatory action has been determined not to be a significant regulatory action under section 3(f)(1) of Executive Order 12866, "Regulatory Planning and Review", 58 FR 51735 (Oct. 4, 1993).

**Statutory Authority:** 42 U.S.C. 6321 et seq. and 42 U.S.C. 17154(14).

Issued in Washington, DC, on March 6, 2012.

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